

# HOUSE . . . . . No. 2702

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Antonio F.D. Cabral**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to promote economic development in gateway cities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol
Stephen J. Buoniconti	Hampden
Mark C. Montigny	Second Bristol and Plymouth
Benjamin B. Downing	Berkshire, Hampshire and Franklin
Michael R. Knapik	Second Hampden and Hampshire
Michael J. Rodrigues	8th Bristol
Stephen R. Canessa	12th Bristol
Angelo J. Puppolo, Jr.	12th Hampden
Stephen L. DiNatale	3rd Worcester
Christine E. Canavan	10th Plymouth
Robert P. Spellane	13th Worcester
William Lantigua	16th Essex
David B. Sullivan	6th Bristol
Harriette L. Chandler	First Worcester
Robert M. Koczera	11th Bristol
Kevin Aguiar	7th Bristol
Barbara A. L'Italien	18th Essex
Steven J. D'Amico	4th Bristol
Michael O. Moore	Second Worcester

Richard T. Moore	Worcester and Norfolk
Joan M. Menard	First Bristol and Plymouth
Geraldine Creedon	11th Plymouth
Barbara A. L'Italien	18th Essex
James J. O'Day	14th Worcester District
Jennifer L. Flanagan	Worcester and Middlesex
Linda Dean Campbell	15th Essex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT TO PROMOTE ECONOMIC DEVELOPMENT IN GATEWAY CITIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Section 3A of Chapter 23A is hereby amended by adding the following definition:

“Gateway Cities” or “Gateway City”, municipalities or a municipality in the commonwealth designated by the Secretary of Housing and economic Development pursuant to section 3I.

### Section 2

Chapter 23A is hereby amended by adding the following section:

The Secretary of Housing and Economic Development shall designate as Gateway Cities municipalities which meet the following criteria, no later than January 31 of each year:

(a) population exceeding 35,000 people;

(b) median household income below the state average;

(c) per capita income below the state average; and

(d) percentage of the city or town’s population having attained a bachelor’s degree or higher below the state’s average.

Any municipality named a Gateway City shall remain a Gateway City for at least three consecutive calendar years.

### Section 3

Section 6J(b)(1)(i) of Chapter 62 is hereby amended by striking the words “an amount not to exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all other municipalities combined.”

**Section 4**

Section 38R(b)(1)(i) of Chapter 63 is hereby amended by striking the words “an amount not to exceed \$50,000,000 per year” and inserting in its place the following words: “an unlimited amount for Gateway Cities as defined in Chapter 23A, and an amount not to exceed \$100,000,000 annually for all other municipalities combined.”

**Section 5**

Chapter 63 is hereby amended by adding the following:

Definitions –

- (1) “Commissioner” means the Commissioner of the Department of Revenue as described in Section 2 of Chapter 14
- (2) “Department of Revenue” means the Massachusetts Department of Revenue as described in Section 1 of Chapter 14
- (3) “Full-time employee” means, for the purposes of this Section only, an individual who is employed for consideration for at least an average of thirty-five hours a week, who renders any other standard of service generally accepted by custom or specified by contract as full-time employment, or who is employed for consideration for such time or renders such service but is on family or medical leave under the federal Family and Medical Leave Act of 1993, Pub. L. No. 103-3, 107 Stat. 6, as amended, or on active military duty reserve or Massachusetts national guard service.
- (4) “New employee” means, for the purposes of this Section only, a full-time employee first employed by a taxpayer in the project that is the subject of the agreement after the taxpayer enters into a tax credit agreement with the tax credit authority under this section

The Department of Revenue shall have the authority to provide a credit for a corporation against its corporate income tax to foster job creation in Gateway Cities in the commonwealth as defined in Chapter 23A of these laws. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer’s agreement with the Department of Revenue. The amount of the credit available for a taxable year cannot exceed either \$2500 per new employee or ten percent (10%) of that corporation’s state income tax

A taxpayer or potential taxpayer who proposes a project to create new jobs in the commonwealth may apply to the Department of Revenue to enter into an agreement for a tax credit under this section. The Commissioner of the Department of Revenue shall prescribe the form of the application. After receipt of an application, the Department may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

- (1) The taxpayer’s project will create new jobs in this state;
- (2) The taxpayer’s project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state; and
- (3) Receiving the tax credit is a major factor in the taxpayer’s decision to go forward with the project.

60 An agreement under this section shall include all of the following:

- 61 (1) A detailed description of the project that is the subject of the agreement;
- 62 (2) The term of the tax credit, which shall not exceed ten years, and the first taxable year,  
63 or first calendar year that includes a tax period, for which the credit may be claimed;
- 64 (3) A requirement that the taxpayer shall maintain operations at the project location for at  
65 least twice the number of years as the term of the tax credit;
- 66 (4) A letter of support from the Mayor or Town Manager of the Gateway City in which  
67 the jobs will be created;
- 68 (5) A specific method for determining how many new employees are employed during a  
69 taxable year or during a calendar year that includes a tax period;
- 70 (6) A requirement that the taxpayer annually shall report to the Commissioner of the  
71 Department of Revenue the number of new employees, the new income tax revenue withheld in  
72 connection with the new employees, and any other information the Commissioner may need; and
- 73 (7) A provision requiring that the taxpayer shall not relocate employment positions from  
74 elsewhere in this state to the project site that is the subject of the agreement;

75 If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax  
76 credit agreement, the Department of Revenue may amend the agreement to reduce the percentage  
77 or term of the tax credit. The reduction of the percentage or term may take effect in the immediate  
78 taxable year in which the Commissioner of Revenue notifies the taxpayer in writing of such  
79 failure. If the taxpayer fails to annually report any of the information required by this section  
80 within the time required by the Commissioner, the reduction of the percentage or term shall take  
81 effect in the current taxable year.

82 Projects that consist solely of point-of-final-purchase retail facilities, as defined by the  
83 Department of Revenue, are not eligible for a tax credit under this section. If a project consists of  
84 both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project  
85 consisting of the nonretail facilities is eligible for a tax credit and only the new income tax  
86 revenue from new employees of the nonretail facilities shall be considered when computing the  
87 amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility  
88 and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog  
89 distribution centers are not considered point-of-final-purchase retail facilities for the purposes of  
90 this division, and are eligible for tax credits under this section.

91 Financial statements and other information submitted to the Department of Revenue by  
92 an applicant or recipient of a tax credit under this section, and any information taken for any  
93 purpose from such statements or information, are not public records subject to Massachusetts  
94 General Laws. However, the Commissioner of Revenue may make use of the statements and  
95 other information for purposes of issuing public reports or in connection with court proceedings

concerning tax credit agreements under this section. The Commissioner shall preserve the confidentiality of the statement or information.

## **Section 6**

Chapter 63 is hereby amended by adding the following section:

Section 38U

(a) For the purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:-

“Commissioner”, the Commissioner of the Department of Revenue

"Department", the Department of Housing and Community Development, or its successor agency.

“Gateway City”, a municipality as defined by Chapter 23A

"Gateway City housing project", a project to build, convert from non-residential uses or rehabilitate housing in a Gateway City.

“Secretary”, the Secretary of Housing and Economic Development

(b)(1) There shall be a tax credit for Gateway City housing projects. The department may authorize annually under this section the total sum of \$25,000,000 collectively amongst the Gateway Cities as defined in Chapter 23A.

(2) The department shall allocate the total available Gateway City housing project tax credit among as many qualified projects as fiscally feasible, with the goal of increasing market rate housing the commonwealth's Gateway Cities.

(c)(1) The Gateway City housing tax credit shall be taken against the taxes imposed under this chapter, claimed equally for five years, subtracted from the amount of state tax otherwise due for each taxable period and shall not be refundable. The tax credit shall not exceed the amount of state tax owed annually by the claimant.

(2) An owner of a Gateway City housing project shall certify to the commissioner the amount of credit allocated to such owner. The owner of the Gateway City housing project shall provide to the commissioner appropriate information as needed by the Commissioner.

(d) The owner of a Gateway City housing project eligible for the Gateway City housing tax credit shall submit, at the time of filing the project owner's state tax return, a letter of support from the Mayor or Town Manager of the Gateway City in which the project is located, and a copy of the required statements issued by the department with respect to such Gateway City housing project. In the case of failure to attach the required

statements, a credit under this section shall not be allowed with respect to such qualified Gateway City housing project for that year until the copy is provided to the Commissioner.

(e) The Commissioner, through the promulgation of regulations, may require the filing of additional documentation necessary to determine the eligibility or accuracy of a tax credit claimed under the provisions of this section.

(f)(1) All or any portion of tax credits issued in accordance with the provisions of this section may be transferred, sold or assigned to parties who are eligible under the provisions of paragraph (1) of subsection (c).

(2) An owner or transferee desiring to make a transfer, sale or assignment as described in paragraph (1) of subsection (f) shall submit to the Commissioner a statement which describes the amount of Gateway City housing tax credit for which such transfer, sale or assignment of Gateway City housing tax credit is eligible. The owner shall provide to the commissioner appropriate information so that the housing tax credit can be properly allocated.

(3) In the event that recapture of Gateway City housing tax credits is required, any statement submitted to the commissioner as provided in paragraph (2) of subsection (f) shall include the proportion of the Gateway City housing tax credit required to be recaptured, the identity of each transferee subject to recapture and the amount of credit previously transferred to such transferee.

(4) The commissioner, in consultation with the department, shall promulgate regulations necessary for the administration of the provisions of paragraph (f).

(g) The department, in consultation with the commissioner, shall monitor and oversee compliance with the Gateway City housing tax credit program and may promulgate regulations requiring the filing of additional documentation deemed necessary to determine continuing eligibility for the Gateway City housing tax credit. The department or the commissioner shall report specific occurrences of noncompliance to appropriate state, federal and local authorities.

## **Section 7**

Chapter 62 is hereby amended by adding the following section:

### **(a) Definitions**

For the purposes of this section, unless the context clearly requires otherwise, the following words shall have the following meanings:-

"Certified housing structure", a housing structure within a Gateway City Housing Rehabilitation Zone which meets the rehabilitation requirements set forth by the Department of Housing and Community Development.

165 "Department", the department of housing and community development, or its successor agency.

166 "Gateway City", a municipality as defined by Chapter 23A

167 "Gateway City Rehabilitation Zone", an area of a Gateway City designed pursuant to Subsection  
168 (b)

169 "Qualified rehabilitation expenditure" means any amount that is properly chargeable to the  
170 homeowner, is expended in the rehabilitation of a structure that, by the end of the taxable year in  
171 which the certified rehabilitation is completed, is a certified heritage structure, is expended in  
172 compliance with a plan of proposed rehabilitation that has been approved by the Department, and  
173 is not funded, financed, or otherwise reimbursed by any state or local grant, grant made from the  
174 proceeds of tax-exempt bonds issued by the Commonwealth, a political subdivision of the  
175 Commonwealth, or an instrumentality of the Commonwealth or of a political subdivision of the  
176 Commonwealth, State tax credit other than the tax credit provided for under the Act, or other  
177 financial assistance from the Federal government, the Commonwealth, or a political subdivision  
178 of the Commonwealth.

179 "Rehabilitation" means the process of returning a structure to a state of utility, through repair or  
180 alteration, which makes possible an efficient use while preserving those portions and features of  
181 the structure and its site and environment which make the structure and its site and environment  
182 historically, architecturally, or culturally significant.

183 "Secretary" means the Secretary of Housing and Economic Development.

184 "Substantial rehabilitation" means rehabilitation of a structure for which the qualified  
185 rehabilitation expenditures, during the 24-month period selected by the taxpayer ending with or  
186 within the taxable year, exceed \$5,000

187 "Taxpayer" means resident of the Commonwealth that makes qualified rehabilitation  
188 expenditures.

189 (b) There shall be a Gateway City Homeowner Rehabilitation Tax Credit. The Secretary, or  
190 her designee, in an agreement with the Gateway City shall establish a Gateway City  
191 Rehabilitation Zone within which homes will be eligible for the Gateway City  
192 Homeowner Rehabilitation Tax Credit. The Secretary shall establish standards to  
193 determine an application process by which a taxpayer may request the Gateway City  
194 Homeowner Rehabilitation Tax Credit. The application shall include proof of ownership,  
195 rehabilitation plans, estimated rehabilitation expenses, and any other information he  
196 needs to be able to award the Gateway City Homeowner Rehabilitation Tax Credit.

197 A taxpayer may file an application with the Secretary or his designee. An incomplete  
198 application may not be processed until all required application information has been received.

199 The Gateway City Homeowner Rehabilitation Tax Credit shall be for individual  
200 homeowners who make substantial rehabilitation to their home. The credit shall not exceed 25%



201 of the home appraised value. The credit shall be awarded annually in an amount not to exceed  
202 \$5,000. If the credit allowable for any taxable year exceeds the annual limit for that tax year, the  
203 taxpayer may carry forward and apply in the next nine subsequent taxable years, the remaining  
204 portion, still subject to the annual limit. The carryover period shall not exceed 9 taxable years  
205 after the close of the taxable year during which the Gateway City Homeowner Rehabilitation Tax  
206 Credit was first taken.

207               The Secretary or her designee shall determine whether the proposed substantial  
208 rehabilitation for which a complete application is received meets the Standards in  
209 determining awarding of the tax credit.